IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

OP.No. 7561 of 1998(A)

PETITIONER:

KERALA CHEMICALS & PROTEINS LTD.,
PANAMPILLY NAGAR, COCHIN - 682036,
REPRESENTED BY ITS EXECUTIVE DIRECTOR,
(FINANCE & ADMINISTRATION),
SRI. KOSHY MATHEW.

BY ADV. SRI.M.PATHROSE MATHAI,
SRI.SAJI VARGHESE.

RESPONDENTS:
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1. **SALES TAX INSPECTOR,**
   SALES TAX CHECK POST,
   WALAYAR.

2. **STATE OF KERALA,**
   REPRESENTED BY THE CHIEF
   SECRETARY TO GOVERNMENT,
   GOVERNMENT SECRETARIAT,
   THIRUVANANTHAPUAM.

BY GOVT. PLEADER SRI. MATHEW JOSEPH VADAKKEL.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 20/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO. 13187/1998 IN O.P. NO. 7561/1998

DISMISSED

20/08/2007. **SD/- T.R.RAMACHANDRAN NAIR, JUDGE.**

APPENDIX

PETITIONER'S EXHIBIT:

EXT.P.1: COPY OF THE NOTICE DTD. 14/04/1998 ISSUED BY THE R.1. TO THE PETITIONER.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

T.R.RAMACHANDRAN NAIR, J.

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O.P.No. 7561 of 1998-A.

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Dated this the 20th day of August, 2007.

J U D G M E N T

The petitioner is challenging the operation of Sub Rule (2A) of Rule 4 of the Kerala Tax on Entry of Goods into Local Areas Rules and Ext.P1 demand notice whereby entry tax amounting to Rs.7,54,750/- has been demanded.

2. The validity of the provisions of the act was considered by a Division Bench of this Court in the decision reported in *K.A.Jose v. R.T.O., Ernakulam and another* (2007(1) KLJ 128). After elaborately considering the matter it has been held that, ' the levy of entry tax on goods imported from other state to the State of Kerala and from abroad is not compensatory in nature and the demand and collection of tax is illegal'.

3. In the light of the above decision of the Division Bench, Ext.P1 cannot be sustained and hence the same is quashed.

4. The learned Government Pleader points out that the State has challenged the above judgment before the Supreme Court by filing a Special Leave Petition. Reserving the right of the Government to proceed in

accordance with the decision in the S.L.P., if circumstances requires this writ petition is allowed. No costs.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-